

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**IN RE: JOHNSON & JOHNSON TALCUM  
POWDER PRODUCTS MARKETING, SALES  
PRACTICES, AND PRODUCTS LIABILITY  
LITIGATION**

MICHAEL AALTO, individually and on behalf of the  
Estate of EILEEN AALTO,  
Plaintiffs,

v.

JOHNSON & JOHNSON, JOHNSON & JOHNSON  
CONSUMER, INC. f/k/a JOHNSON & JOHNSON  
CONSUMER COMPANIES, INC.,  
Defendants.

**MDL No. 2738 (FLW) (LHG)  
JUDGE FREDA L. WOLFSON  
MAG. JUDGE LOIS H.  
GOODMAN**

**COMPLAINT AND JURY  
DEMAND**

Civil Action No.: \_\_\_\_\_

**DIRECT FILED ACTION**

**SHORT FORM COMPLAINT  
AND JURY DEMAND**

The Plaintiff named below files this *Short Form Complaint and Demand for Jury Trial* against Defendants named below by and through the undersigned counsel. Plaintiff incorporates by reference the allegations contained in *Plaintiffs' Master Long Form Complaint* in *In re: Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2738 in the United States District Court for the District of New Jersey. Plaintiff files this Short Form Complaint as permitted by Case Management Order No. 2 of this Court.

In addition to those causes of action contained in *Plaintiffs' Master Long Form Complaint*, where certain claims require specific pleadings and/or amendments, Plaintiff shall add and include them herein.

## **IDENTIFICATION OF PARTIES**

### **Identification of Plaintiff(s)**

1. Name of individual injured due to the use of talcum powder product(s):

Eileen Aalto

---

2. At the time of filing of the specific case, Plaintiff(s) is/are a citizen of:

Massachusetts, United States

---

3. Consortium Claim(s): The following individual(s) allege damages for loss of consortium: Michael Aalto.

4. Survival and/or Wrongful Death Claims:

Name and residence of Decedent Plaintiff when she suffered the talcum powder product(s) related death: Eileen Aalto, North Pembroke, Massachusetts

5. Plaintiff/Decedent was born on 1/16/1944 and died on 1/6/2010.

6. Plaintiff is filing this case in a representative capacity as the Husband of the Deceased, having been duly

Court of N/A.

- |                      |                                  |
|----------------------|----------------------------------|
| <u>      X      </u> | injury to herself                |
| <u>      X      </u> | injury to the person represented |
| <u>      X      </u> | wrongful death                   |
| <u>      X      </u> | survivorship action              |
| <u>      X      </u> | economic loss                    |
| <u>      X      </u> | loss of services                 |
| <u>      X      </u> | loss of consortium               |
| <u>          </u>    | other: _____                     |

8. Plaintiff(s)/Decedent Plaintiff(s) is/are suing the following Defendant(s) (please check all that apply):

- 3

- ☐ Imerys Talc America, Inc. (“Imerys Talc”)
- ☐ Personal Care Products Council (“PCPC”)

**Additional Defendants:**

- ☐ Other(s) Defendant(s) (please specify): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**JURISDICTION & VENUE**

**Jurisdiction:**

9. Jurisdiction in this Short Form Complaint is based on:

☒ Diversity of Citizenship

☐ Other (The basis of any additional ground for jurisdiction must

be pled in sufficient detail as required by the applicable Federal Rules of Civil Procedure). \_\_\_\_\_

\_\_\_\_\_

**Venue:**

10. District Court(s) and Division (if any) in which venue was proper where you might have otherwise filed this Short Form Complaint absent the direct filing Order entered by this Court and to where remand could be ordered by the Judicial Panel for trial:

United States District Court for the District of Massachusetts

\_\_\_\_\_

### **CASE SPECIFIC FACTS**

11. Plaintiff(s) currently reside(s) in (City, State):

North Pembroke, Massachusetts

---

12. At the time of the Plaintiff's/Decedent's diagnosis with a talcum powder product(s) injury, Plaintiff/Decedent resided in (City, State):

North Pembroke, Massachusetts

---

13. The Plaintiff/Decedent was diagnosed with a talcum powder product(s)

injury in (City/State): S. Weymouth, Massachusetts on

December 2010 (date).

---

14. To the best of Plaintiff's knowledge, Plaintiff/Decedent began using talcum powder product(s) on or about the following

date: 1962 and continued the use of talcum powder product(s)

through about the following date: 2010.

15. The Plaintiff/Decedent purchased talcum powder product(s) in the

following (State(s)): Massachusetts

---

16. Plaintiff/Decedent used the following talcum powder products:

☒ Johnson & Johnson's Baby Powder

☐ Shower to Shower

## **CAUSES OF ACTION**

17. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference the *Master Long*

*Form Complaint and Jury Demand* as if fully set forth herein.

18. The following claims and allegations asserted in the *Master Long*

*Form Complaint and Jury Demand* are herein adopted by reference by

Plaintiff(s):

- ☐ Count I: Products Liability – Strict Liability – Failure to Warn (Against Imerys Talc)
- ☒ Count II: Products Liability – Strict Liability – Failure to Warn (Against the Johnson & Johnson Defendants)
- ☐ Count III: Products Liability – Strict Liability – Defective Manufacturer and Design (Against Imerys Talc)
- ☒ Count IV: Products Liability – Strict Liability – Defective Manufacturer and Design (Against the Johnson & Johnson Defendants)
- ☒ Count V: Breach of Express Warranties (Against the Johnson & Johnson Defendants)
- ☒ Count VI: Breach of Implied Warranty of Merchantability (Against the Johnson & Johnson Defendants)
- ☒ Count VII: Breach of Implied Warranty of Fitness for a Particular Purpose (Against the Johnson & Johnson Defendants)
- ☐ Count VIII: Negligence (Against Imerys Talc)
- ☒ Count IX: Negligence (Against the Johnson & Johnson Defendants)
- ☐ Count X: Negligence (Against PCPC)

- ☒ Count XI: Negligent Misrepresentation (Against the Johnson & Johnson Defendants)
- ☒ Count XII: Fraud (Against the Johnson & Johnson Defendants)
- ☐ Count XIII: Fraud (Against PCPC)
- ☒ Count XIV: Violation of State Consumer Protection Laws of the State of Massachusetts  
(Against the Johnson & Johnson Defendants).
- ☐ Count XV: Fraudulent Concealment (Against Imerys Talc)
- ☒ Count XVI: Fraudulent Concealment (Against the Johnson & Johnson Defendants)
- ☐ Count XVII: Fraudulent Concealment (Against PCPC)
- ☒ Count XVIII: Civil Conspiracy (Against All Defendants)
- ☒ Count XIX: Loss of Consortium (Against All Defendants)
- ☒ Count XX: Punitive Damages (Against All Defendants)
- ☒ Count XXI: Discovery Rule and Tolling (Against All Defendants)
- ☒ Count XXII: Wrongful Death (Against All Defendants)
- ☒ Count XXIII: Survival Action (Against All Defendants)
- ☐ Furthermore, Plaintiff(s) assert(s) the following additional theories and/or State Causes of Action against Defendant(s) identified in Paragraph nine (9) above. If Plaintiff(s) includes additional theories of recovery, to the extent they require specificity in pleadings, the specific facts and allegations

supporting these theories must be pled by Plaintiff(s) in a manner complying with the requirements of the Federal Rules of Civil Procedure.

---

---

---

---

**WHEREFORE**, Plaintiff prays for relief and judgment against Defendants of compensatory damages, punitive damages, interest, costs of suit, and such further relief as the Court deems equitable and just, and as set forth in the Master Long Form Complaint as appropriate.

**JURY DEMAND**

Plaintiff(s) hereby demand a trial by jury as to all claims in this action.

Dated: 3/12/2021

Respectfully Submitted by,

/s/ Jeff Benton  
Jeff Benton  
The Benton Law Firm PLLC  
1825 Market Center Blvd., Suite 350  
Dallas, Texas 75207  
Phone: (214) 777-7777  
Facsimile: (214) 615-2950  
Jeff@TheBentonLawFirm.com

**Counsel for Plaintiff(s)**